

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PRESERVE OUR ISLANDS, a Washington
Non-profit Corporation; PEOPLE FOR
PUGET SOUND, a Washington Non-profit
Corporation; WASHINGTON
ENVIRONMENTAL COUNCIL, a
Washington Non-profit Corporation;

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS, et
al

Defendants,

and

NORTHWEST AGGREGATES
COMPANY,

Defendant-Intervenors.

NO. C08-1353-RSM

DECLARATION OF
DAVID A. BRICKLIN IN SUPPORT
OF PLAINTIFFS' MOTION FOR
FEES AND EXPENSES

I, David A. Bricklin, declare as follows:

1. I was retained by David S. Mann, plaintiffs' attorney, to provide my opinion
as to the reasonableness of the hourly rates of Mr. Mann and his associates Brendan
Donckers and Ashley Peck in this litigation.

DECLARATION OF DAVID A. BRICKLIN
(C08-1353-RSM)- 1

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2. My background and experience qualify me to render an opinion on plaintiffs' counsel's hourly rates.

3. I graduated from Harvard Law School in 1977. I have been a partner in private practice in Seattle since 1981 with an emphasis on environmental and land use law. I was a co-author of the State Superfund Law (Model Toxics Control Act) and a primary contributor to the Growth Management Act. I have litigated cases under the National Environmental Policy Act and the parallel State Environmental Policy Act frequently, including *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 109 S.Ct. 1835 (1989). Under *Robertson*, we were awarded attorneys' fees under the Access to Justice Act.

4. Because my practice involves land use and environmental litigation, I am familiar with the rates charged by various colleagues in the Seattle market.

5. In preparing this declaration, I have briefly reviewed plaintiffs' opening and reply briefs, the response briefs of the federal defendants, and this court's ruling. I have also reviewed the resumes for Mr. Mann, Mr. Donckers and Ms. Peck.

6. Mr. Mann was admitted to practice in Washington in 1991. He is also admitted in and has tried cases in the Federal District Courts in Washington and before the U.S. Court of Appeals. I have also personally known Mr. Mann for 18 years and am very familiar with his work as an attorney. I am aware of Mr. Mann's reputation in the legal community, which is excellent. I believe that Mr. Mann's hourly rate of \$325.00 per hour in 2008 and \$350 per hour in 2009 is exceedingly reasonable (*i.e.*, well below market rates) for the Seattle market given his extensive experience and knowledge of federal and state environmental law.

DECLARATION OF DAVID A. BRICKLIN
(C08-1353-RSM)- 2


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7. I believe that an hourly rate of \$200.00 per hour for an associate attorney is very reasonable for the Seattle market, too.

8. I do not believe it would be possible for plaintiffs to have retained an experienced NEPA and ESA litigator at anywhere close to the \$150/hour rate set out in 28 U.S.C. 2412 (even with the annual adjustment for inflation).

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 11th day of September, 2009, in Seattle, Washington.


David A. Bricklin

DECLARATION OF DAVID A. BRICKLIN
(C08-1353-RSM)- 3

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